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APPENDIX G

DEPOT MAINTENANCE COMPETITION

G-1. Purpose. To provide guidance for conducting Service Workload Competitions for depot maintenance between public activities and for public activity involvement in competitions for depot maintenance between public activities and private sector firms, and for the administration of workload assignments to public activities which may result from such competitions. These guidelines are intended to ensure that depot maintenance competitions are conducted under consistent processes, to ensure fair and equitable treatment of bidders (offerors) to the maximum extent possible, and to ensure the best value is obtained for the Department of Defense (DoD).

G-2. Applicability.

a. All competitions for depot maintenance workload open to private sector firms shall be conducted in accordance with the current Defense Federal Acquisition Regulation Supplement (DFARS) and applicable DoD department/agency/component/Service directives, regulations, instructions, orders, etc.

b. All competitions for depot maintenance workload between public activities and not advertised to the private sector, will be conducted according to the guidance contained in this document and implementing procedures promulgated by each Service.

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G-3. Definition of Terms. For purposes of this appendix, the following definitions apply:

Arms-Length Relationship- The ethical separation of personnel associated with the buyer side of a competition from personnel associated with the seller side of a competition.

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Assignment Document- The document assigning a workload to a public activity as the result of competition for depot maintenance in lieu of a contract, which would be the award instrument for a private entity outcome.

Buyer- The organization or activity that is funding the acquisition of military materiel maintenance or support, or performing the procurement or acquisition function on behalf of the funding activity. See requiring activity.

Competition- The process of soliciting, evaluating, and selecting among proposals from maintenance, repair, and manufacturing activities, acting independently, to secure the business of the procuring Agency. In appropriate circumstances, competition may occur between depot maintenance activities, between private entities, or between depot maintenance activities and private entities.

Competition Management Activity- The designated government organization responsible for conducting a Service Workload Competition and managing the resultant award/workload assignment.

Competition Manager- The designated official within the competition management activity who is the focal point for the competition. Often this is a contracting officer, weapon system manager, system manager, item manager, etc.

Contractor Furnished Equipment (CFE)- Equipment (materiel) not furnished by the government but required to perform the specified work and will be furnished by the contractor (performing activity).

Contractor Furnished Material (CFM)- Material not furnished by the government but required to perform the specified work and must be furnished by the contractor (performing activity).

Cost Realism Analysis- The evaluation of an offeror's cost or pricing data and of the judgmental factors applied in projecting from the data to estimated costs (prices) in order to form an opinion leading to a position on the degree to which the offeror's proposed costs (prices) represent what performance should cost, assuming reasonable economy and efficiency.

Defense Depot Maintenance Council (DDMC) Cost Comparability Handbook (CCHB)- A document, the development of which was tasked by the DDMC, that provides standardized procedures and techniques to ensure cost comparability during consolidation studies and when competing depot maintenance workloads between Military Services/DoD agencies (public vs. public) and between Military Service/DoD agency sources and the private sector (public vs. private).

Defense Federal Acquisition Regulation Supplement (DFARS)- The DoD acquisition regulation that implements the Federal Acquisition Regulation and contains material that is unique to the DoD.

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Depot Maintenance- That materiel maintenance requiring major overhaul or a complete rebuilding of parts, assemblies, subassemblies, and end items, including the manufacture of parts, modifications, testing, and reclamation as required. Depot maintenance serves to support lower categories of maintenance by providing technical assistance and performing that maintenance beyond their responsibility. Depot maintenance provides stocks of serviceable equipment because it has more extensive facilities for repair than are available in lower maintenance activities. Depot maintenance includes all aspects of software maintenance. (DoDD 4151.18)

Depot Maintenance Interservice Support Agreement (DMISA)- A formalized agreement similar to a contract whereby one Service (the Agent) obligates itself to provide depot maintenance support for another Service (the Principal). DMISAs may also be used when a Military Service is the Agent, and another Federal Government department or agency, or element thereof, is the Principal.

Dispute- A claim or assertion, under the terms of the contract award or workload assignment resulting from a competition, by one of the parties thereto seeking, as a matter of right, the payment of money, the adjustment or interpretation of terms, or other relief.

Evaluation Factors- All factors that will be major considerations in awarding or assigning the work. Examples of factors are: price or cost, cost realism, technical excellence, management capability, transportation costs, other costs associated with one bidder as opposed to another bidder, personnel qualifications, experience, and schedule.

Government Furnished Equipment (GFE)- Equipment (materiel) that is required to perform the specified work and will be furnished by the government (or requiring activity).

Government Furnished Material (GFM)- Material that is required to perform the specified work and will be furnished by the government (requiring activity).

Protest- Disagreement with the source selection decision by an offeror to the solicitation.

Private-private Competition- Competition restricted to private (commercial) bidders.

Public-private Competition- Competition open to both public (organic) and private sector (commercial) bidders.

Public-public Competition- Competition restricted to public (organic) bidders.

Requiring Activity- The organization or activity assigned responsibility for military materiel (i.e., weapon system, system, component, etc.) management and which is the funding customer.

Seller- The organization or activity supplying military materiel maintenance or support to the buyer.

Service Workload Competition- A competition for depot maintenance work conducted by the requiring activity (or Service) under the Joint Depot Maintenance Program.

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Solicitation- The invitation to bid or request for proposal; also the formal documentation soliciting bids or proposals.

Source Selection Authority- The government official responsible for the proper conduct of the source selection process and authorized to select a source.

Source Selection Advisory Council- A group of senior personnel designated by the source selection authority to provide advice during a selection; may also be required to prepare a comparative analysis of the evaluation results.

Source Selection Evaluation Board- A group of personnel designated by the source selection authority or the source selection advisory council to evaluate proposals and report facts and findings.

Specification- The description of the technical requirements for a material, product, or service that includes the criteria for determining whether these requirements are met. It establishes the parameters of design, performance, construction, physical characteristics, and terms of acceptance for a specified item or product. Three common types of specifications are: performance, design, and purchase.

Statement of Work (SOW)- The description of supplies, services, support, or effort to be acquired. It establishes and defines all nonspecification requirements and often includes specifications. It provides the basis on which offerors (bidders) will prepare technical and cost proposals; it provides the basis on which technical evaluation criteria will be selected; and it provides the standard against which the successful offeror's performance will be measured.

Technical Data Package (TDP)- A technical description of an item adequate for supporting an acquisition strategy, production, engineering, and logistics support. The description defines the required design configuration and procedures to ensure adequacy of item performance. It consists of all applicable technical data such as drawings, associated lists, specifications, standards, performance requirements, quality assurance provisions, and packaging details.

G-4. Standards of Conduct and Ethics, Procurement Integrity and Arms-Length Relationships.

a. DoDD 5500.7, Standards of Conduct, and Title 41, U.S. Code, Section 423, "Procurement Integrity Act" apply to all organizations and personnel involved in all phases (e.g., pre-award, solicitation, proposal evaluation, award/assignment, or administration) of all depot maintenance competitions. DoD directives and Service regulations specify types of conduct that are prohibited in relationships with defense contractors; the same standards of conduct apply to the relationships between soliciting organizations (and their personnel) and public offerors (and their personnel).

b. Individuals, including advisors and management, who participate in a solicitation, including the preparation of the workload requirement, proposal evaluation, or award/assignment for a depot maintenance competition shall not participate in the preparation of a corresponding

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proposal. Establishing and maintaining an arms-length relationship is dependent upon the integrity of individuals. There is no prohibition against distinct teams from a single organization conducting a competition and submitting a proposal if the arms-length relationship is maintained. However, all communications between these teams relative to that competition must be through the competition manager.

G-5. Competition Plan.

a. A plan for each competition will be developed and maintained by the competition manager.

b. The competition plan will address all the elements listed under presolicitation activities, solicitations, contract award/competitive assignment, post award activities, and material support/federal supply system access, within this appendix and other pertinent activities that affect or are involved in the competition.

c. The competition plan will be initiated as a presolicitation activity and will be coordinated with all user Services. It will be approved by the source selection authority (SSA).

G-6. Selection of Candidate Competition Workloads.

a. Single-Service Used Workloads. Depot maintenance support of weapon systems, systems, equipment or components used by a single Service may be competed by that Service.

b. Multi-Service Used Workloads. For multi-Service-used weapons systems, systems, equipment or depot level reparable components, each using Service will determine whether its portion of the workload will be competed. If more than one Service decides to compete its portion, a joint competition will be accomplished.

c. Workloads on Depot Maintenance Interservice Support Agreement (DMISA). Current DMISAs shall not be terminated to establish candidates for competition unless product cost, product quality, or schedule does not meet requirements as defined in the DMISA.

G-7. Presolicitation Activities.

a. Competition Scope. The scope of a workload proposed for competition will be coordinated with all responsible logistics and material (item) managers. All Service users will be consulted. The scope of the competition will be defined in the competition plan, which should be initiated at this point.

(1) Systems, equipment or components, such as avionics/electronics systems, engines, aircrew ejection systems, etc., that are used on or have the potential of being used on more than one platform will be competed separately from the platform.

(2) Competitions will take award length into consideration. Normally, commercial repair and overhaul contracts run from 3-5 years (a base year with options), but interservice

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workload assignments are considered life-of-type arrangements. The competition plan will explain the period of performance selected.

b. Competition Management.

(1) The SSA (and competition management) will be within the using Service for all competitions of single Service used systems, equipment or depot level reparable components.

(2) In cases where more than one Service uses all or part of a workload to be competed, a lead Service will be designated to manage the competition and associated award/assignment implementation as applicable. The SSA will be designated from that Service. The lead Service will be determined as one of the following:

(a) The Service having system or item management and configuration control authority.

(b) The Service having Primary Inventory Control Activity (PICA) responsibility as defined in AMC-R 700-99, NAVSUPINST 4790.7, AFMCR 400-21, MCO P4410.22C, Logistics Wholesale Inventory Management and Logistics Support of Multiservice Used Nonconsumable Items, and as registered in the Federal Logistics Information System (FLIS) at the level (e.g., system, equipment, component, etc.) which the workload is being competed.

(c) The predominate using Service.

(d) A minority using Service where the predominant using Service is not participating in a joint competition or declines management of the competition.

(3) Within the Service conducting the competition, a competition management activity will be designated. A single official within the competition management activity will be designated the competition manager.

c. Technical Data Availability.

(1) Workloads to be competed must have a technical data package (TDP) that is sufficient for the competition planned and will not preclude any interested candidate activity from participating.

(2) Preparation of the TDP is the responsibility of the competition management activity. Using Service(s) having special requirements must provide any necessary additional technical data to the competition management activity for inclusion in the TDP.

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d. Statement of Work (SOW).

(1) The competition management activity shall be responsible for developing the SOW (or work specification).

(2) Representatives from each of the Services with workload included in the competition shall support the competition management activity in development of the SOW (or work specification). As a minimum, each using Service with workload to be competed will:

(a) Identify Service unique requirements and ensure they are covered in the SOW.

(b) Review and approve the SOW prior to solicitation.

(c) Participate in sensitivity and/or risk assessments, or other presolicitation analyses performed in the development of requirements.

(3) The competition management activity may solicit or invite comment from the potential bidders, as deemed appropriate.

e. Synopsis for the Commerce Business Daily (CBD) (public-private competitions only). Any competition that contemplates proposals from private sector firms shall advertise in the CBD as provided in the DFARS. In general, the synopsis should state that offers are being solicited from both public activities and private entities. Public activities interested in workload competitions advertised in the CBD that do not state that offers are being solicited from public activities as well as private entities, should contact the competition management activity and request amendment of the synopsis to so state.

G-8. Solicitations.

a. Solicitation Methods.

(1) Public-private Competition. Solicitation methods shall be as provided in the DFARS. Generally, the full range of contract types (i.e., fixed price, fixed price incentive, cost plus incentive fee, cost plus award fee, etc.) are available. Selection of a contract type should ensure that public activities can compete and that the best value to the Government is obtained.

(2) Public-public Competition. A solicitation method shall be utilized that is appropriate for the situation, and will result in the best price to the customer while minimizing overall costs to DoD. The solicitation method will be determined by the competition management activity.

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b. Solicitation Provisions.

(1) **Public-private Competition.** Solicitation provisions shall be as provided in the DFARS and will generally be substantially the same as private/private competitions. However, statements are required that:

(a) Offers will be accepted from public activities.

(b) Cost comparability adjustments, as provided in the Defense Depot Maintenance Council (DDMC) Cost Comparability Handbook (CCHB), must be applied by each public offeror to its proposal.

(c) The Senior Acquisition Executive (SAE) of the Service managing the competition will certify that successful bids include comparable estimates of all direct and indirect costs for both public and private offers.

(d) Evaluation factors may be applied to each bid, consistent with the requirement of the solicitation.

(e) Public activity offers will be analyzed to determine if the proposal reflects a realistic estimate of the total cost to satisfy the work requirement.

Additionally, provisions and clauses that are not applicable to DoD activities must be identified in the solicitation.

(2) **Public-public Competition.** Solicitation provisions such as the following shall be included:

(a) Clearly cite the authorization for the competition.

(b) Cost comparability adjustments must be applied by each public offeror to its proposal, as provided in the DDMC CCHB.

(c) The audit agencies of the Services involved in the competition (requirements and /or offeror roles) may certify that successful bids include comparable estimates of all direct and indirect costs.

(d) Evaluation factors may be applied to each bid, consistent with the requirement of each solicitation.

(e) Public activity offers will be analyzed to determine if the proposal reflects a realistic estimate of the total cost to satisfy the work requirement.

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c. Source Selection Process.

(1) The full range of source selection techniques (i.e., price competition, two-step, formal/streamlined, etc.) are available. The technique selected will ensure that the best value to the Government is obtained and that it does not bias the outcome. Technique selection is a competition management activity function.

(2) Each Service with workload being competed should be involved in the selection process. The competition management activity must include other using Service representatives on evaluation and selection panels, when requested, if its workload is being competed. These panels may include a source selection evaluation board (SSEB) and a source selection advisory council (SSAC).

(3) For public-private competitions, source selection will stay within the existing contract authority guidelines. If however, a maintenance function within the same immediate command as the competition management activity will submit an offer, the source selection authority (SSA) may be from another command to preclude a perception of impropriety.

(4) For public-public competitions, source selection should be organized similarly to contract authority guidelines, but need not remain within the contracting authority of the command conducting the competition. The source selection process may deviate from that which would be used under public-private competition to more efficiently and effectively conduct the competition. If a maintenance function within the same immediate command as the competition management activity will submit an offer, the SSA may be from another command to preclude a perception of impropriety. A source selection evaluation and advisory staff may be established, based on the complexity of the solicitation and the source selection criteria, which includes price analysts, technical evaluators, terms and conditions evaluators, etc.

G-9. Contract Award/Competitive Assignment.

a. Cost Realism Analysis. Public activity offers must be analyzed for cost realism to determine whether the proposed price reflects costs sufficient to accomplish work identified in the solicitation. Private entity offers may also be subjected to a cost realism analysis. It is the responsibility of the competition management activity, with assistance from proposing Services as required, to ensure cost realism. The cost realism process and documentation must be fully auditable by an independent activity.

b. Cost Comparability. All public activity offers must include cost comparability adjustments in accordance with the DDMC CCHB. Application of cost comparability adjustments is the responsibility of the offering public activity. The SAEs shall certify that successful bids in public-private competitions include comparable estimates of all direct and indirect costs before contract award or workload assignment resulting from each competition.

c. Evaluation Factors. Evaluation factors may be applied by the competition management activity.

d. Surveys.

(1) Surveys may be conducted by the competition management activity at any offeror's location.

(2) Public offerors will be allowed the same access to public activities currently performing work to be competed as private offerors.

e. Standards/Systems/Programs Equivalency. The competition management activity will determine acceptability of using public offerors' existing systems/programs (i.e., production reporting systems, Equal Employment Opportunity (EEO) compliance, quality programs, safety, etc.) in lieu of solicitation requirements.

f. Award/Assignment Document.

(1) Acceptance of an offeror's proposal constitutes an award/assignment. Acceptance authority will be identified by the competition management activity in its solicitation. Offerors will state in their proposals the authority of the signer to commit the activity or company.

(2) Existing award and assignment formats will be used.

(3) The competition management activity will notify that Service's MISMO of the offeror selected in order to initiate joint Service notification.

(4) A competitive workload assignment to a public activity within a Service will be handled by that Service. Public activity competitive workload assignment to another Service shall be by DMISA which must contain the same work requirements, price structure, and schedule as set forth in the solicitation. Using Services may negotiate and manage DMISAs for their own workload.

(5) Existing contracting/assignment systems may be used to track an award/competitive assignment.

g. Protests.

(1) Private Sector Protests. Protests from private offerors shall be as provided in the DFARS and in accordance with the procedures set forth in the solicitation document.

(2) Public Sector Protests.

(a) Protests from public offerors within the same Service as the competition management activity will be resolved within that Service and in accordance with the procedures set forth in the solicitation document.

(b) Protests from public offerors not in the same Service as the competition management activity will be resolved in accordance with the procedures set forth in the solicitation

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document. Protests from public offerors must be filed with the competition management activity for resolution via the public offeror's next command level or as provided in the offeror's own Service implementing procedures. The protest must be received by the competition management activity not later than 10 working days after source selection notification. The SSA must rule on the protest within 20 working days from filing. The public offeror may appeal the SSA decision to the Defense Depot Maintenance Council (DDMC). This appeal must be filed within 20 working days of notification of denial or dismissal of the protest by the SSA.

(3) Award/assignment will be delayed when a public activity lodges a protest until the protest is resolved or the Service responsible for the competition rules that continuation of performance is in the best interest of the Government. The same procedure applies to continued performance when a protest is lodged after award.

G-10. Post Award Activities.

a. Administration.

(1) Private Sector Awards. Administration of contracts awarded to private industry will be in accordance with the DFARS.

(2) Public Activity Assignments. Workload assignments made competitively to public activities will be administered by the activity assigned by the organization managing the competition as provided in the solicitation document. The administration activity will be responsible for assessing fair compensation for changes and representing certain specified interests of the parties who are funding the work assigned. Compensable changes will be negotiated and authorized based on the authorities granted by the parties funding the workload and contingent on the availability of funds.

b. Disputes and Appeals.

(1) Private Sector Disputes. Disputes and appeals from a private sector firm will be resolved based on procedures in the DFARS.

(2) Public Activity Disputes. Disputes and appeals from a public activity performing competitively assigned workload will be resolved in accordance with existing depot maintenance interservice (DMI) procedures, progressing through the Services' chains of command for resolution, as provided in the solicitation document, and as may be provided in the DFARS.

c. Termination. In the case of private sector contracts, the competition management activity may terminate for convenience or nonperformance as provided in the DFARS. However, existing DMI procedures shall be used for termination of DMISAs for workload competition assignments to public activities.

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G-11. Material Support/Federal Supply System (FSS) Access.

a. Government-Furnished Material (GFM). When GFM cannot be delivered on schedule, existing Service procedures will be used to negotiate or resolve the issue. This applies to both public and private activities.

b. Contractor-Furnished Material (CFM).

(1) For public activity assignments, the first source for CFM shall be the FSS. Existing Service procedures covering the FSS should be used. Because CFM is government furnished for public activities, late delivery of CFM should be treated as late delivery of GFM. When CFM delivery schedules do not meet workload requirements, the public activity will contact the cognizant administrative authority for resolution using existing procedures governing late delivery of GFM.

(2) Under public-private competition, the private sector may be allowed to use the FSS if it is in the Government's interest, as provided in the DFARS.

c. Government-Furnished Equipment (GFE). GFE that will be provided to the performing activity will be identified in the solicitation.

d. Contractor-Furnished Equipment (CFE). Public activities must have all CFE available or be in a position to obtain CFE to propose on a solicitation. Although all equipment furnished by a public activity is GFE, the equipment should be treated as if it were CFE.

G-12. "Freedom of Information Act"/Business Sensitivity.

a. All information that may be released to a private sector competitor must also be releasable to any public activity competitor.

b. Certain information used in day-to-day business and in the preparation of proposals under competition would enable competitors to determine the strategy that a specific public activity would use to develop a bid. This information should be marked business sensitive and "For Official Use Only" by the preparing activity. Documents so marked may be exempt from release, in whole or in part under Title 5, U.S. Code, Section 552, "Freedom of Information Act." In this context, public bid/proposal preparation offices should annotate their documents in accordance with marking procedures outlined in DFARS 24.2 and appropriate supplements and DoD regulations.

c. Competition management activities shall take the same precautions throughout the life of the procurement to protect public activity bid/proposal information as afforded information submitted by a private sector firm.